

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 LUIS M. CERVANTES-
12 TAMAYO,

13 Petitioner,

14 v.

15 JAMES WALKER, Warden,

16 Respondent.
17

Case No. SACV 08-1056 JHN(JC)

18 ~~(PROPOSED)~~ ORDER ADOPTING
19 FINDINGS, CONCLUSIONS, AND
20 RECOMMENDATIONS OF
21 UNITED STATES MAGISTRATE
22 JUDGE
23

24 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of
25 Habeas Corpus by a Person in State Custody (the "Petition") and all of the records
26 herein, including the attached Report and Recommendation of United States
27 Magistrate Judge ("Report and Recommendation"), and petitioner's objections to
28 the Report and Recommendation ("Objections"). The Court has further made a *de*
novo determination of those portions of the Report and Recommendation to which
objection is made.¹ The Court concurs with and adopts the findings, conclusions,
and recommendations of the United States Magistrate Judge and overrules the
Objections.

¹This Court, in an exercise of its discretion, declines to consider new evidence and arguments presented for the first time in the Objections. See United States v. Howell, 231 F.3d 615, 621 (9th Cir. 2000), cert. denied, 534 U.S. 831 (2001).

1 IT IS ORDERED that the Petition is denied on its merits, that respondent's
2 Motion to Dismiss is denied as moot, and that Judgment be entered denying the
3 Petition and dismissing this action with prejudice.

4 IT IS FURTHER ORDERED that the Clerk serve copies of this Order, the
5 United States Magistrate Judge's Report and Recommendation, and the Judgment
6 herein on petitioner and counsel for respondent.

7 LET JUDGMENT BE ENTERED ACCORDINGLY.

8
9 DATED: March 28, 2011

10
11 
12 _____
13 HONORABLE JACQUELINE H. NGUYEN
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28